

UTAH APPRAISER LICENSING AND CERTIFICATION BOARD

Heber M. Wells Building

Room 210

9:00 a.m.

February 22, 2017

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Kadee Wright, Chief Investigator
Justin Barney, Hearing Officer
Elizabeth Harris, Assistant Attorney General
Amber Nielsen, Board Secretary
Eric Stott, Real Estate Analyst
Kendelle Christiansen, Education Coordinator
Jim Bolton, Investigator
Craig Livingston, Investigator
Faruk Halilovic, Division Staff

BOARD MEMBERS PRESENT:

Kristin Coleman-Nicholl, Chair
John E. Ulibarri, II, Vice Chair
Daniel Brammer, Board Member
Jim Bringhurst, Board Member
Jeffrey T. Morley, Board Member*

*Board Member Morley appeared by phone

PUBLIC MEMBERS PRESENT:

James "Andy" Morris

The February 22, 2017 meeting of the Appraiser Licensing and Certification Board began at 8:58 a.m. with Chair Coleman-Nicholl conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to table the minutes for approval from the January 25, 2017 and February 2, 2017 meetings until the next meeting. Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Brammer, yes; Board Member Bringhurst, yes; Board Member Morley, yes. The motion carries.

Public Comment Period – No public comment was made at this time.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart thanked Board Member Brammer for his service and wished him well in Spain. He presented Board Member Brammer with a plaque honoring his time on the Board. Director Stewart has submitted a name to the Governor's Office for a replacement Board Member. It has not yet been approved.

Director Stewart reported the Division Bill finished and passed last Friday and is now just awaiting the Governor's signature.

Director Stewart presented a revised Executive Order from Governor Herbert dealing with establishing effective oversight over state agency rule making. The changes are geared to make sure that rule makers keep in mind the public and small businesses. The main changes require that the agencies use an analysis tool to estimate fiscal impact when making rules.

Director Stewart turned time to Craig Livingston. Mr. Livingston stated he received a phone call from an AMC that an appraiser trainee was doing inspections unsupervised, but the appraiser was signing that they inspected the property. Chair Coleman-Nicholl stated this had been brought to her attention as well and she didn't find any rule that stated a trainee couldn't sign. Director Stewart stated the issue is that the appraiser falsely certified they had done the inspection. The Board feels that the certification needs to be accurate, either through a change in the certification or an addendum. Use of the term appraiser trainee was discussed. Vice Chair Ulibarri stated that the term appraiser trainee is understood. Director Stewart stated in AARO the term appraiser was discussed; and some felt the term had negative connotations and should be changed. Vice Chair Ulibarri respectfully disagrees. Andy Morris stated Fannie Mae's wording allows for a trainee or even an unlicensed person to do that inspection. He feels that it makes sense for a licensed appraiser to be required to sign the certification, since anyone can do the inspection.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported in January the Division received 2 complaints; opened 3 new cases; closed 3 cases; leaving 41 appraisal cases open with the Division. There are a total of 10 cases are now with the AG's office.

Stipulations for Review:

Robert Vincent

EDUCATION AND LICENSING REPORT – Kendelle Christiansen

Ms. Christiansen reported that Mr. Fagergren has been in contact with an appraiser who feels the Utah requirement for trainees to be accompanied by their supervisor for the first 100 inspections is over the top. Ms. Christiansen stated the AQB requirements, which does not have a number of inspections specified. Vice Chair Ulibarri stated he believes it could be unduly burdensome and prohibitive to require the 100 inspections. He asked that this be reviewed and considered in the future for a possible change.

Ms. Christiansen reported an appraiser has requested that their prospective trainee who has not yet completed the requirements for registration be allowed to gain experience prior to completing the requirements based on her having a Bachelor's Degree. The requirement is written into rule, so this would require a rule change.

Certified and Licensed Appraiser Applicants Approved by both Education and Experience Review Committees:

Susan Bowman, CG Candidate

Certified Appraisers Recommended for Approval to be Added to the Utah Appraiser Experience Review Committee:

Paul R Wood

Ms. Christiansen presented a disciplinary list of individuals approved for licensing by the Division since the last meeting.

HEARING OFFICER REPORT – Justin Barney

Mr. Barney stated there was an item on the disciplinary list, which would be discussed in closed session. There were no licensing stipulations for review.

BOARD AND INDUSTRY ISSUES

Director Stewart discussed an appraisal rule regarding signatures which was sent to Director Stewart by Amanda Mendenhall. The Board discussed a signature being affixed by another individual with the written permission of the individual. The necessity of affixing signatures was discussed. Chair Coleman-Nicholl does not feel a change to the rule is necessary, but if Ms. Mendenhall would like to discuss this in the future the Board would be willing to revisit the issue. Vice Chair Ulibarri stated he was a little unsure about Ms. Mendenhall's concern.

Mr. Barney reported the proposed rule amendment on AMC Administrative Rules which a number of comments from the public during the public comment period and during the public hearing last month. Suggested changes were received from some members of the public and Chair Coleman-Nicholl and Vice Chair Ulibarri provided some suggested changes to the language. Mark Schiffman provided some suggested language, should

the rule be adopted. There had been some concern that there was authority to enact these changes. The Attorney General's Office provided an informal opinion which state the authority to require these changes was there. The AGO did state the use of the word simultaneously might need revision based on the intent of the rule. Mr. Barney stated the Board should consider the suggested changes and decide whether they want to implement the changes or not. If there are any changes implemented, the rule would need to be submitted for filing for the public comment period. Mr. Barney discussed the deadline dates should the rule filing move forward. Board Member Bringhurst asked what the options would be for the effective date. Director Stewart stated there are really two options to make the rule effective later, vote to make the rule effective at a later date or wait until the later date and vote. Mr. Barney stated that the rule could have an effective date written into the rule for enforcement, but the rule itself would be effective prior to that.

Chair Coleman-Nicholl stated she sent out a revised draft of the proposed rule after the AGO informal opinion was received and asked for Board opinion on that. Vice Chair Ulibarri stated he would like to include language relating to the Board approval of a fee studies or surveys. Director Stewart stated the Division has the authority to reject a fee schedule already. Ms. Wright stated that she feels the current rules are not clear. She likes the proposed change because it is clear. Director Stewart stated what the statute currently says. Ms. Wright asked if Director Stewart felt the intent of this rule was already enforceable with what is currently in statute and rule. Director Stewart stated the only difference to what is currently outlined would be the addition of the VA fee schedule to the Dodd-Frank presumption of compliance. Mr. Barney stated that since Dodd-Frank is referenced, but the details are not spelled out, if the federal regulation went away having the requirement outlined in rule would still keep that requirement. The benefits and detriments of having the rule quote Dodd-Frank were discussed. Vice Chair Ulibarri asked for Ms. Harris' opinion. Ms. Harris was not sure what the result of Dodd-Frank being amended or repealed would have on the current statute; however, she does feel that restating the requirements in rule would be redundant. Director Stewart stated his opinion on the language to adopt for this portion of the rule. Chair Coleman-Nicholl discussed her thoughts on the language. The specific language to be used was discussed. Mr. Barney presented proposed language which would provide the desired clarification in R162-2e-304 (3).

A motion was made and seconded to amend the rule with the changes and file the rule amendment for public comment. Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Brammer, yes; Board Member Bringhurst, yes; Board Member Morley, yes. The motion carries.

Mr. Barney did mention that the AMCs requested additional time to make the rule effective. The effective date was discussed.

A motion was made and seconded to make that rule amendment effective September 1, 2017. Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Brammer, yes; Board Member Bringhurst, yes; Board Member Morley, yes. The motion carries.

The AGO's recommendation in the informal opinion to change the wording was discussed.

A motion was made and seconded to adopt the language recommendation from the AGO's informal opinion. Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Brammer, yes; Board Member Bringhurst, yes; Board Member Morley, yes. The motion carries.

A break was held from 10:13 a.m. to 10:23 a.m.

INFORMAL HEARING:

The James "Andy" Morris Experience Review began at 10:23 a.m. Board Member Morley recused himself from this experience review.

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Brammer, yes; Board Member Bringhurst, yes; Board Member Morley, yes. The motion passes.

CLOSED TO PUBLIC

An Executive Session was held from approximately 12:05 p.m. to 12:29 p.m.

OPEN TO PUBLIC

RESULTS OF EXECUTIVE SESSION

Stipulations for Review:

Robert Vincent – Approved

Certified and Licensed Appraiser Applicants Approved by both Education and Experience Review Committees:

Susan Bowman, CG Candidate – Approved

Certified Appraisers Recommended for Approval to be Added to the Utah Appraiser Experience Review Committee:

Paul R Wood – Approved

A motion was made and seconded to adjourn the meeting. Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Brammer, yes; Board Member Bringhurst, yes; Board Member Morley, yes. The motion passes. The meeting adjourned at approximately 12:33 p.m.